

CHAPTER NO. 674

SENATE BILL NO. 1539

By Haynes

Substituted for: House Bill No. 1569

By Briley, Vincent

AN ACT to amend Tennessee Code Annotated, Title 47, Chapter 14 and Title 62, Chapter 20.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 62, Chapter 20, Part 1, is amended by adding a new section thereto, as follows:

Section 62-20-127. (a) A collection service holding a valid license under this chapter may take assignment of accounts, bills, notes or other indebtedness held by another person or entity, for the purpose of billing, collecting or filing suit in the collection service licensee's own name, as the real party in interest, if all the following requirements have been met:

(1) The assignment was voluntary, properly executed, and acknowledged by the person or entity making the assignment to the collection service licensee;

(2) The original agreement between the creditor and the debtor does not prohibit assignments;

(3) The assignment was manifested by a written agreement stating the effective date of the assignment and the consideration paid or given, if any, for the assignment. The written agreement must also disclose that the collection service licensee may, for purposes of litigation, consolidate the assigned account, bill, note or other indebtedness with those of other creditors against the individual debtor or co-debtors; and

(4) A collection service licensee bringing suit in its own name as an assignee may submit an affidavit of sworn account that has been executed under oath by the assigning party or by a person qualified to execute a sworn account pursuant to Tennessee Code Annotated, Section 24-5-107(a). A copy of the sworn account shall be filed with the court for service upon the debtor.

(b) A collection service licensee may commence litigation for the collection of an assigned account, bill, note or other indebtedness in a court of competent jurisdiction located in any of the following counties:

(1) The county in which the debtor signed the account, bill, note or other indebtedness sued upon;

(2) In the case of consolidated accounts that all arose from the same county, the county in which all of the consolidated accounts, bills, notes or other indebtednesses arose; or

(3) The county in which the debtor resides at the commencement of the action.

(c) No collection service licensee shall commence any litigation authorized by this section, unless the collection service licensee appears by an attorney admitted to practice law in the State of Tennessee.

(d) (1) For purposes of commencing litigation, a collection service licensee that has taken an assignment or assignments pursuant to this section may consolidate the assigned accounts, bills, notes or other indebtedness of one or more creditors against one individual debtor or co-debtors, in one case. Each assigned account, bill, note or indebtedness must be separately identified and pled in any consolidated action authorized by this section. The individual amount of each account, bill, note or other indebtedness that forms the basis for any consolidated action shall not exceed two hundred dollars (\$200) each, as identified and pled by the collection service licensee, exclusive of court costs, attorney fees and interest that may have accrued before the filing of the consolidated action. The aggregate amount of consolidated accounts, bills, notes and other indebtedness in any one case shall not exceed five hundred dollars (\$500), as identified and pled by the collection service licensee, exclusive of court costs, attorney fees and interest that may have accrued before the filing of the consolidated action. Court costs shall be assessed to the losing party. Interest and attorney fees and reimbursable expenses shall be assessed against the losing party, if provided in any of the consolidated accounts, bills, notes or other indebtedness, or as otherwise permitted or required by law.

(2) If a debtor or co-debtor files a sworn denial or otherwise raises a dispute concerning any account, bill, note or other evidence of indebtedness, the court shall dismiss the account, bill, note or other evidence of indebtedness, without prejudice. The collection service licensee may bring a separate case for any such disputed account, bill, note or other evidence of indebtedness within one (1) year of dismissal; provided, however, that the disputed account, bill, note or other evidence of indebtedness cannot be consolidated with any other account, bill, note or other evidence of indebtedness.

(3) For any account on which an affidavit of sworn account is filed pursuant to Tennessee Code Annotated, Section 24-5-107(a), a separate affidavit shall be filed for each account in a consolidated action.

(e) Nothing in this section relieves a collection service licensee from complying with the "Fair Debt Collection Practices Act", 15 U.S.C. § 1692, as amended, or deprives any debtor of the right to assert defenses as provided therein.

(f) On the face of any warrant or other pleading filed in any consolidated action, or in an attachment thereto, the collection service licensee shall state the order in which the creditor intends to apply payments received on any judgment obtained in the consolidated action. The collection service licensee shall also state that payments will


be applied as stated unless the debtor instructs otherwise in writing or the court orders otherwise.

SECTION 2. This act shall take effect July 1, 2004, the public welfare requiring it.

PASSED: May 5, 2004



JOHN S. WILDER
SPEAKER OF THE SENATE



JIMMY NAIFEH, SPEAKER
HOUSE OF REPRESENTATIVES

APPROVED this 18th day of May 2004



PHIL BREDESEN, GOVERNOR